

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT
ATLANTA DIVISION

DIANNE WRIGHT

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES EAST, LP,

Defendant.

NOTICE OF REMOVAL

COMES NOW Wal-Mart Stores East, LP, named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant Wal-Mart Stores East, LP in the State Court of Douglas County, Georgia, which is within the Atlanta Division of this Court 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 18SV00047. Plaintiff's claim against Defendant includes claims of negligence.

2.

Plaintiff filed the Complaint on or about February 7, 2017. Defendant Wal-Mart Stores East, LP received service of summons and copies of the Complaint on February 14, 2018. Wal-Mart Stores East, LP filed its Answer on February 23, 2018. Wal-Mart Stores East, LP files this Notice of Removal within thirty (30) days after service of the summons and Complaint.

3.

Defendant WAL-MART STORES EAST, LP is a Delaware limited partnership, of which WSE Management, LLC is the only general partner, and WSE Investment, LLC is the only limited partner. The sole member of WSE Management, LLC and of WSE Investment, LLC is Wal-Mart Stores East, LLC, and the sole member of Wal-Mart Stores East, LLC is Wal-Mart Stores, Inc. Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201.

4.

Dianne Wright is a citizen of the State of Georgia.

5.

Complete diversity of citizenship exists between Plaintiff and Defendant.

6.

Plaintiff claims injuries to her cervical spine and left shoulder, including a left shoulder diagnostic arthroscopic surgery with rotator cuff tear repair, extensive debridement of the glenohumeral joint, arthroscopic subacromial decompression and bursectomy, distal clavicle resection and an AminoFix growth factor injection; past medical expenses of \$137,438.42; future medical expenses, and has made a \$600,000.00 settlement demand (Exhibit "A"), thereby meeting the jurisdictional requirement for federal subject matter jurisdiction. See Lowery v. Alabama Power Co., 483 F.3d 1184, 1262 n.62 (11th Cir. 2007) (quoting 28 U.S.C. § 1446(b)); Addo v. Globe Life & Accident Ins. Co., 230 F.3d 759, 761-62 (5th Cir.2000); Williams v. Safeco Ins. Co., 74 F.Supp.2d 925, 929 (W.D.Mo.1999); Southern Ins. Co. of Virginia v. Karrer, Civil Action No. 3:10-CV-84 (CAR), 2011 Westlaw 1100030 (M.D.Ga. Mar. 22, 2011); Golden Apple Management Co. v. Geac Computers, Inc., 990 F.Supp. 1364, 1368 (M.D.Ala. 1998); Jackson v. Select Portfolio Servicing, 651 F.Supp.2d 1279, 1281 (S.D.Ala. 2009); Barlow v. Variety Wholesalers, Civil Action No. 5:14-CV-375 (WLS) (M.D.Ga. Dec. 17, 2014); Devezin v. Wal-Mart Stores East, LP, Civil Action No. 1:134-CV-3721 (CAP) (N.D.Ga February 20, 2015); Peterman v. Wal-Mart Stores,

Civil Action No. 1:13-cv-91 (WLS), 2013 Westlaw 5210188 (M.D.Ga. Sept. 13, 2013); Farley v. Variety Wholesalers, Civil Action No. 5:13-CV-52 (CAR), 2013 Westlaw 1748608 (M.D.Ga. April 23, 2013). The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

7.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

8.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Douglas County, Georgia for the above-styled case.

9.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

10.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

11.

A true and correct copy of this Notice of Removal will be filed with the

Clerk of the State Court of Douglas County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant Wal-Mart Stores East, LP prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger
Howard M. Lessinger
Georgia State Bar No. 447088

/s/ Jennie Rogers
Jennie Rogers
Georgia Bar No. 612725
Attorney for Defendant
WAL-MART STORES EAST, LP

The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Jennie E. Rogers
Jennie E. Rogers

CERTIFICATE OF SERVICE

This is to certify that on March 8, 2018, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Jennie E. Rogers
Jennie E. Rogers
Georgia State Bar No. 612725
Attorney for Defendant
WAL-MART STORES EAST, LP

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